

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

Chapter 7

COMMERCIAL KITCHEN DESIGNS, INC.,

Case No.: 17-42981-nhl

Debtor.
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**ORDER GRANTING MOTION OF THE CHAPTER 7
TRUSTEE FOR AN ORDER AUTHORIZING THE SALE
OF CERTAIN STATE COURT CLAIMS OF THE DEBTOR'S
ESTATE FREE AND CLEAR OF LIENS, CLAIMS, INTERESTS,
AND ENCUMBRANCES PURSUANT TO 11 U.S.C. §§ 105 AND 363
AND RELATED RELIEF**

Upon the Motion¹ of Debra Kramer, the Chapter 7 Trustee (the “Trustee”) of the bankruptcy estate of Commercial Kitchen Designs, Inc. (the “Debtor”), requesting the entry of an order: (i) authorizing the Trustee’s sale of the estate’s right, title and interest in the causes of action/claims for damages (the “Asset”) in the state court action styled *Birinder Madan and Commercial Kitchen Design, Inc. v. Gregory Rowehl, Gabriela Rowehl, Berkshire Pizzeria LLC, and Berkshire Kitchen Design, Inc.*, pending in the Supreme Court of the State of New York, County of Kings, Index No. 500627/2015 to Birinder Madan (the “Stalking Horse Bidder”), or to such other bidder making the highest and/or best offer at a public auction, free and clear of liens, claims, interests, and encumbrances pursuant to sections 105(a) and 363(b), (f) and (m) of Title 11 of the United States Code, rule 2002 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and E.D.N.Y. LBR 6004-1 of the E.D.N.Y. Local Bankruptcy Rules; (ii) approving the terms of the asset purchase agreement (the “Purchase Agreement”) annexed to the Motion as Exhibit “A”; (iii) approving the terms and conditions for submitting offers and bidding

¹ Capitalized terms not defined herein shall have the meaning ascribed in the Motion.

procedures; (iv) approving the form and manner of notice with respect to the auction hearing; (v) waving the fourteen (14) day stay under rule 6004(h) of the Bankruptcy Rules; and (vi) granting related relief; and the Court having jurisdiction to consider the Motion and requested relief in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and due and proper notice of the Motion having been provided; and it appearing that no other notice need be provided, and that further notice has been waived; and the Court having read and considered the Motion; and any objections to the Motion having been resolved, withdrawn, or otherwise overruled by the Court; and the Court having determined that the Bidding Procedures are fair, reasonable and appropriate, reflect the Trustee's exercise of prudent business judgment consistent with the Trustee's fiduciary duties, and are designed to maximize the value to be obtained by the estate for the Asset; and the Court having determined that the legal and factual bases set forth in the Motion and at any hearing thereon establish just and sufficient cause for the relief granted herein; it is hereby

ORDERED, ADJUDGED AND DECREED THAT:

1. The relief sought in the Motion is GRANTED to the extent set forth herein.
2. The Purchase Agreement and all of its terms and conditions are approved in their entirety.
3. The Bidding Procedures are approved in their entirety.
4. The Purchase Agreement and the Bidding Procedures are fair and reasonable.
5. Pursuant to 11 U.S.C. § 363(b), the Trustee is authorized to sell the Asset to the Stalking Horse Bidder for the Purchase Price as provided in the Motion.
6. Pursuant to 11 U.S.C. § 363(f), the sale of the Asset to the Stalking Horse Bidder (the "Sale") shall be free and clear of any and all liens, claims, interests, and encumbrances, with

such liens, claims, interests, and encumbrances to attach to the proceeds of the Sale with the same force, effect, and priority as such liens, claims, interests and encumbrances have on the estate's right to the Asset, as appropriate, subject to the rights and defenses of the Trustee and any party in interest with respect thereto.

7. The Trustee and the Trustee's professionals are authorized to take such actions as are necessary to effectuate the terms of the Purchase Agreement, together with all additional instruments and documents that may be reasonably necessary to implement the Purchase Agreement.

8. The Stalking Horse Bidder is granted the protections provided to a good faith purchaser under 11 U.S.C. § 363(m).

9. The transfer of the Asset to the Stalking Horse Bidder pursuant to the Purchase Agreement constitutes a legal, valid, and effective transfer of all right, title and interest of the Trustee and the Debtor's estate in the Asset, and shall vest the Stalking Horse Bidder with all of the Trustee's and the Debtor's estate's right, title and interest in the Asset.

10. The fourteen (14) day stay under Bankruptcy Rule 6004(h) is waived.

11. This Court reserves jurisdiction over the provisions of this Order and to hear and determine all matters arising from the implementation of this Order.